

APPEAL NO. 111849
FILED FEBRUARY 6, 2012

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 24, 2011, in [City], Texas, with [hearing officer] presiding as hearing officer. With regard to the disputed issues before her, the hearing officer determined that: the respondent (claimant) sustained a compensable injury on [date of injury], and that the claimant had disability from an injury sustained on [date of injury], from October 11, 2010, through the date of the CCH. In the decision and order, the hearing officer's order states the true corporate name of the insurance carrier is Texas Mutual Insurance Company (Carrier T) and orders that Carrier T is liable for the benefits at issue in the CCH.

Ace American Insurance Company (Carrier A) appealed, contending error by the hearing officer in issuing the decision and order against the wrong carrier, Carrier T, rather than the correct carrier, Carrier A. We note that the cover letter on Carrier A's appeal lists the hearing officer's designation in the caption section of her decision of carrier as Indemnity Insurance Company of North America (Carrier I). The appeal file does not contain a response from the claimant, Carrier T, or Carrier I.

DECISION

Reversed and remanded.

The style of the case in the hearing officer's decision and order is claimant versus Carrier I and the hearing officer, at the CCH, announced the style of the case as the claimant versus Carrier I.

The claimant and [Mr. S], the attorney representing the carrier at the CCH, stipulated that the employer carried workers' compensation insurance with Carrier I. The benefit review conference report admitted into evidence as Hearing Officer Exhibit No. 1 lists Carrier I as the carrier being represented by Mr. S. Hearing Officer Exhibit No. 2, the Insurance Carrier Information sheet, lists the carrier's true corporate name as Carrier A. There are no other Insurance Carrier Information sheets admitted into evidence at the CCH.

Initially there were three issues before the hearing officer, the third issue was allegedly resolved by written agreement on June 30, 2011, and was entered into evidence as Hearing Officer Exhibit No. 3. The Benefit Dispute Agreement (DWC-24) lists the carrier as being Carrier A represented by Mr. S. A Notice of Denial of Compensability/Liability and Refusal to Pay Benefits (PLN-1) lists the carrier as Carrier

A. Texas Department of Insurance, Division of Workers' Compensation (Division) records indicate that the carrier of record on the [date of injury], date of injury, to be Carrier I. Other correspondence in the appeal file dated as recently as October 20, 2011, from Mr. S's law firm lists the carrier as Carrier A. The transcript of the CCH lists the carrier as Carrier I. The hearing officer's decision and order was only sent to Carrier I and Mr. S as well as the claimant.

There are conflicting forms and notices regarding who the correct carrier is for the claimed injury. In principle, this case is similar to cases where, after the CCH, information was presented that the carrier participating in the hearing did not have coverage. See Appeals Panel Decision (APD) 081219, decided October 1, 2008; APD 070475, decided May 5, 2007; and APD 050802, decided May 18, 2005. Because of the conflicting evidence regarding the correct carrier, we remand the case for the hearing officer to determine who the correct carrier is for the [date of injury], date of injury, and if it is a carrier other than the carrier that was present at the CCH, to hold another hearing with the proper carrier present. It will also be necessary for the correct carrier to have signed and executed the DWC-24 agreement. On remand, the hearing officer is to take official notice of the Division records regarding the proper carrier and admit those records into evidence. Carrier A, Carrier T and Carrier I are to be allowed the opportunity to present evidence as to the identity of the correct carrier in this proceeding.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

According to information provided by Carrier A, the true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Division records indicate that the true corporate name of Carrier I is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Division records indicate that the true corporate name of Carrier T is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON O. WRIGHT, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Margaret L. Turner
Appeals Judge